

**Corporate Response Form 'Third Package' Consultation**  
URN 10D/727 Open: 27/07/2010 Close: 19/10/2010

<b>Name:</b>	
<b>Organisation:</b>	Energy Markets Unit, Scottish Government
<b>Email:</b>	
<b>Phone:</b>	

**Consultation Questions**

**Chapter 1 – Consumer Protection**

<b>1</b>	<b>Consultees are invited to comments on Government proposals to implement the consumer protection measures of the Third Package.</b>
----------	---------------------------------------------------------------------------------------------------------------------------------------

<b>2</b>	<b>In respect of the requirement to switch customers within three weeks, subject to contractual terms, we propose to put in place a new Licence Condition requiring the new supplier to give new customers a 14 calendar day period after the contract has been entered into, to consider whether they wish to proceed with this. Unless the customer notifies the supplier they do not wish to proceed, the Licence Condition will require the new</b>
----------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p><b>supplier to give customers the right to change their mind within 14 calendar days and then be switched within three weeks, subject to outstanding debt (and, in the case of non-domestic customers, contractual conditions). Do consultees agree with this proposal?</b></p>
<p><b>3</b></p>	<p><b>Do consultees consider that the requirement on supply undertakings which are not registered in Great Britain, to provide a GB address for the service of the documents, poses any difficulty for these suppliers? Evidence of costs to these suppliers would be particularly welcome.</b></p>

## **Chapter 2 – Transmission and Distribution Networks**

**4** Do you have any comments relevant to our consideration of which unbundling models should be available in the GB market?

The GB market already demonstrates effective unbundling arrangements – including in Scotland – and these should continue to operate as they do as consistent with the provisions of the Directive

**5** Do you have any views or concerns with how we intend to apply these new Third Package requirements on TSOs and DSOs?

### **Offshore Electricity Transmission**

We need to avoid offshore monopolies and deliver stable and transparent regulatory frameworks that encourage development of interconnected offshore networks. However, we also need to balance this by ensure that developers can attract investor confidence.

### **Electricity and Gas Regulations: European network codes and the ENTSOs**

Overall we support moves for better alignment of regulatory approaches across the EU. We also strongly support removing barriers to interconnection and an open market in electricity flows.

### Chapter 3 – Gas Infrastructure

- |          |                                                                                                                                                                                                                                    |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>6</b> | <p><b>Should the Gas Directive requirements for storage and LNG operators be introduced through a new licence regime or by amending existing legislation? Please provide evidence of costs and benefits wherever possible.</b></p> |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### Chapter 4 – Role of the National Regulatory Authority

- |          |                                              |
|----------|----------------------------------------------|
| <b>7</b> | <p><b>Implementing binding decisions</b></p> |
|----------|----------------------------------------------|

For the reasons we have set out in the consultation document, the Government proposes to replace the current collective licence modification objection arrangements with a process that allows Ofgem to reach its decisions subject to appeal to an appropriate body. This would reinforce Ofgem's power to make decisions in accordance with their powers and duties under the Third Package, and would give all licensees the same right of appeal. Ofgem's decisions, as now, would need to be reached following consultation and subject to the principles of better regulation. This proposal would include all Ofgem licence modification decisions and not only those covered by the Third Package. We would be grateful for your views on these proposals.

Overall, this is a welcome step to help to help Ofgem regulate in the face of industry vested interests. However, we need to consider how to ensure that the Regulator helps deliver long term Government policies and aims. Governments should have a role in setting the framework in which the Regulator should operate. The regulators should then be accountable to Governments for the policy impact of its regulatory approaches.

#### Independence of regulatory authorities

There is a need to ensure that regulatory autonomy and independence is balanced with regulatory coherence with the policy framework set by Governments.

#### Implementing Binding Decisions

Helping Ofgem to regulate in face of opposition and vested interest.

#### Regulatory regime for cross border issues

There is a requirement on regulatory authorities to facilitate interconnection – welcome this increased focus for regulators in Member states.

### **Chapter 5 - Cross border co-operation**

<b>8</b>	<b>Do you have any views or concerns with how we intend to introduce the regional co-operation elements of the Third Package?</b>
----------	-----------------------------------------------------------------------------------------------------------------------------------

--

### Impact Assessment Questions

These are partial Impact Assessments containing our initial qualitative assessment of the costs and benefits. We therefore would welcome any quantitative evidence to support the further development of these impact assessments. Any information provided will be treated with sensitivity and anonymity.

### Consumer Switching

9	Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with this measure?
---	----------------------------------------------------------------------------------------------------------------------------------------------------------

10	<p>The Government would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding: supplier systems changes, monitoring costs, administrative burdens, the number of extra erroneous switches which may occur as a result of our proposals, the cost of manually stopping the switch and any information regarding the number of customers that currently fall outside the 3 week switching period defined (excluding the cooling-off period).</p>

<b>Consumer Information</b>	
<b>11</b>	<b>Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?</b>



12	<p>The Government would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding: whether the record keeping requirement imposes additional costs (system costs and administrative costs) on industry; an estimate of the scale of these costs; and any evidence regarding the costs associated with passing on consumption and metering data to another supplier.</p>
13	<p>What would be the additional costs to the industry for providing the additional information to consumers in terms of complaints handling/dispute settlement arrangements available by the supplier?</p>

## **National Regulatory Authority**

<b>14</b>	<b>Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?</b>
-----------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>15</b>	<b>We would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding; the monitoring, enforcement and administrative costs involved and any evidence regarding the indirect costs on industry of these measures.</b>
-----------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## **Transmission and Distribution**

- |           |                                                                                                                                                                                              |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>16</b> | <b>Are the Impact Assessment assumptions on the costs to TSOs of complying with the new TSO certification process realistic (both for those seeking derogations and those not doing so)?</b> |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- |           |                                                                                                                                                                                                                                         |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>17</b> | <b>The Impact Assessment assumes that ensuring the independence of the compliance officer for DSOs requires little additional action on the part of the affected DSOs. Your views including evidence of costs would be appreciated.</b> |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

<b>Gas and LNG Operators</b>	
<b>18</b>	<b>Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?</b>
<b>19</b>	<b>What specific changes to current practice will be required to comply with articles 15 (unbundling) and 16 (confidentiality) of the Directive? What are the likely costs of making these changes?</b>

20	<p>Articles 15, 17 and 19 of the Gas Regulation specify that certain operational information must be made publicly available by 'technically and economically necessary' LNG and storage sites. What are the likely costs involved in making this information publicly available?</p>
21	<p>Article 22 of the Regulation outlines the requirement for contracts and procedures to be harmonised at 'technically and economically necessary' LNG and storage sites. What changes to current practices will, in your view, be required to achieve this and what are the likely costs of making these changes?</p>

22	We would welcome evidence on the costs and benefits of introducing a licensing regime for LNG and storage as opposed to introducing the measures through changes to legislation.